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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,382	10/25/2005	Franz Amtmann	AT 030027	7932
65913	7590	03/20/2009	EXAMINER	
NXP, B.V.			LU, ZHIYU	
NXP INTELLECTUAL PROPERTY DEPARTMENT				
M/S41-SJ			ART UNIT	PAPER NUMBER
1109 MCKAY DRIVE			2618	
SAN JOSE, CA 95131				
NOTIFICATION DATE		DELIVERY MODE		
03/20/2009		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/554,382	AMTMANN ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	ZHIYU LU	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 19 December 2008.  
 2a) This action is **FINAL**.                  2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-3,5-13 and 15-19 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-3,5-13 and 15-19 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ .                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____.   | 6) <input type="checkbox"/> Other: _____ .                        |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities:

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1 and 11 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-3, 5-13 and 14-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roz (US Patent#6462647) in view of Yamagishi (US Patent#6982747).

Regarding claim 1, Roz teaches a circuit for a first communication partner appliance designed for contactless communication within a communication system comprising at least one second communication partner appliance in which circuit either an active send mode or a passive send mode may be activated (column 1 lines 3-15), the circuit comprising:

terminal means to transmit carrier signals usable for contactless communication (32 of Fig. 3);  
communication signal processing means to activate an active send mode and a passive send mode, wherein the active send mode uses a carrier signal generated with the communication

signal processing means for the contactless communication, and the passive send mode uses a carrier signal generated with a second communication partner appliance and received by the circuit via the terminal means for the contactless communication (Fig. 2, column 2 lines 1-44; Fig. 3, column 2 line 56 to column 3 line 37);

determination means to determine first energy source information (battery) which comprises at least one parameter of at least one energy source serving to supply the circuit with electrical energy (50 of Fig. 3, V3, column 5 line 42 to column 6 line 36);

an external energy source information identification stage to identify second energy source (364 of Fig. 3, column 4 lines 16-22, power harvested from received signal); and

decision means to form a decision result based on the first and second energy source information from the first and second communication partner appliances wherein the decision result influences which send mode is to be activated in the circuit of the first communication partner appliance (column 7 line 65 to column 9 line 29).

The circuits (Figs 2-3) disclosed by Roz determines whether active send mode or passive send mode to be used by comparing active power source (battery) and passive power source (power harvested from received signals). Basically, the circuits can use passive send mode if the passive power source is strong, which depends on power of the signal sent by the second communication partner appliance, which in term is based on the energy source of the second communication partner appliance uses.

But, Roz does not expressly disclose the external energy source information identification stage identifies second energy source information which comprises at least one parameter of at least one energy source serving to supply a circuit of the second communication partner appliance

with electrical energy; and decision means to form a decision result based on the first and second energy source information from the first and second communication partner appliances wherein the decision result influences which send mode is to be activated in the circuit of the first communication partner appliance.

Yamagishi teaches a communication feature of notifying a wireless device the power source status of another device as communication partner (S204-S216 in Fig. 9, column 17 line 12 to column 19 line 15), which provides the wireless device decisive info for determining following communicative operation. One of ordinary skill in the art would have obviously incorporated such feature of Yamagishi into the apparatus of Roz for giving the circuit decisive info on send mode selection for communication. Because the circuit of Roz would have to use active send mode if the second communication partner appliance is in low power stage. Conversely, the circuit of Roz could use passive send mode with conserving battery power if the second communication partner appliance is in high power stage.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the circuit of Roz with receiving power source status of communication partner appliance taught by Yamagishi into taking power source info of both internal and external for send mode selection, in order to make more accurate send mode selection for following communicative operations.

Regarding claim 11, Roz and Yamagishi teach a method of controlling a send mode of a circuit as explained in response to claim 1 above.

Regarding claims 2 and 12, Roz and Yamagishi teach the limitations of claims 1 and 11.

Roz teaches wherein the determination means are designed to determine first value information, which first value information is characteristic of the value of the energy available for supplying the circuit and which first value information is contained in the first energy source information (column 4 lines 47-65).

Regarding claims 3 and 13, Roz and Yamagishi teach the limitations of claims 1 and 11.

Roz teaches wherein the determination means are designed to determine first type information, which first type information is characteristic of the type of energy source serving to supply the circuit and which first type information is contained in the first energy source information (50 of Fig. 3, column 5 line 29 to column 6 line 27).

Regarding claims 5 and 15, Roz and Yamagishi teach the limitations of claims 4 and 14.

Roz teaches wherein the decision means are additionally designed to form the decision result taking account of second value information available in the circuit but determined in the circuit of the second communication partner appliance, which second value information is contained in the second energy source information determined in the circuit of the second communication partner appliance (as explained above in response to claims 4-14, wherein decision result is taking account of energy information determined in the circuit of the second communication partner appliance, and the value information is definitely high to be selected as energy source of the second communication partner appliance).

Regarding claims 6 and 16, Roz and Yamagishi teach the limitations of claims 4 and 14.

Roz teaches wherein the decision means are additionally designed to form the decision result taking account of second type information available in the circuit but determined in the circuit of the second communication partner appliance, which second type information is contained in the second energy source information determined in the circuit of the second communication partner appliance (as explained in response to claims 4 and 14 above).

Regarding claims 7 and 17, Roz and Yamagishi teach the limitations of claims 1 and 11.

Roz teaches wherein the decision means are designed to communicate the decision result to the second communication partner appliance with the aid of the communication signal processing means (column 3 lines 30-37, line 63 to column 4 line 25, where selected energy source supplying the transponder).

Regarding claims 8 and 18, Roz and Yamagishi teach the limitations of claims 1 and 11.

Roz teaches further comprising control means to receive the decision result and which, if according to the decision result the send mode other than the previously activated send mode is to be activated, to terminate the previously activated send mode (column 2 line 56 to column 3 line 37).

Though Roz and Yamagishi do not expressly disclose terminating a communication protocol used therefor, and to activate the send mode to be activated according to the decision result with a restart of the communication protocol, it would have been obvious to one of ordinary skill in

the art to recognize that restarting a communication protocol is needed if the circuit switches from passive mode into active mode for interrogation. Otherwise, instead of inquiring for interrogation, the circuit would be waiting for signal that never comes.

Regarding claims 9 and 19, Roz and Yamagishi teach the limitations of claims 1 and 11. Roz teaches wherein control means are provided, which are designed to receive the decision result and which, if according to the decision result the same send mode as the previously activated send mode is to be activated, are designed to maintain the previously activated send mode, with termination and subsequent restart of a communication protocol used (obviously the circuit would use the same passive send mode with the same previously used response communication protocol when second communication partner appliance sends interrogation signal again).

Regarding claim 10, Roz and Yamagishi teach a communication partner appliance having a circuit as claimed in claim 1 (as explained in response to claim 1 above).

### ***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ZHIYU LU whose telephone number is (571)272-2837. The examiner can normally be reached on Weekdays: 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/Zhiyu Lu/  
Examiner, Art Unit 2618

/Z. L./  
Examiner, Art Unit 2618  
March 9, 2009

/Duc Nguyen/  
Supervisory Patent Examiner, Art Unit 2618